

## **EXHIBIT K**

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UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA

Parnell Colvin,  
Plaintiff  
v.  
Tako, LLC,  
Defendant

Case No. 2:22-cv-01928-CDS-NJK

**Order Declaring Plaintiff a Vexatious  
Litigant and Imposing a Pre-filing  
Injunction**

11 On December 5, 2022, I granted defendant Tako, LLC's motion to remand and dismissed  
12 for lack of subject-matter jurisdiction the claims brought by pro se plaintiff Colvin. Order, ECF  
13 No. 12. Prior to that decision, I ordered Colvin to show cause in writing why he should not be  
14 deemed a vexatious litigant and be subject to a pre-filing injunction in this district. Order, ECF  
15 No. 10. Colvin filed a response to that show-cause order, but I find it non-responsive, as it merely  
16 reasserts the claims underlying the instant action and conclusorily argues that my decisions  
17 stem from bias and impartiality. Resp., ECF No. 11. Having thoroughly reviewed the  
18 circumstances of this case, and the numerous others that Colvin has filed in this district, I find  
19 that he has abused the judicial process in a fashion that not only wastes judicial resources in this  
20 district, but also interferes with and harasses the parties involved in his state-court cases.  
21 Colvin's persistent attempts to circumvent the eviction proceedings brought against him—  
22 despite the repeated dismissals for lack of subject-matter jurisdiction by various judges in this  
23 district—warrant the extreme remedy of a pre-filing order prohibiting him from filing any  
24 further lawsuits related to any eviction proceedings brought against him in local or state court  
25 without first obtaining prior court approval.

## Case 2:22-cv-01928-CDS-NJK Document 13 Filed 12/12/22 Page 2 of 7

1       I.     Legal standard

2       Federal district courts possess the inherent authority to issue writs—including pre-filing  
3 orders—to prevent vexatious litigants from filing frivolous lawsuits and abusing the judicial  
4 process. *Moy v. United States*, 906 F.2d 467, 469 (9th Cir. 1990); *Molski v. Evergreen Dynasty Corp.*, 500  
5 F.3d 1047, 1057 (9th Cir. 2007) (citing 28 U.S.C. § 1651(a)). Pre-filing orders are an extreme  
6 remedy and should be granted only “after a cautious review of the pertinent circumstances.”  
7 *Molski*, 500 F.3d at 1057. Before entering a pre-filing order, the district court must provide notice  
8 and an opportunity to be heard to the party against whom the order is sought. *Id.* If the court  
9 imposes a pre-filing order, it must set forth which cases and motions support its conclusion that  
10 the party’s filings are so numerous or abusive that the party should be enjoined, make  
11 substantive findings as to the frivolous or harassing nature of the litigant’s actions, and narrowly  
12 tailor the order to “fit the specific vice encountered.” *Id.* (quoting *De Long v. Hennessey*, 912 F.2d  
13 1144, 1148 (9th Cir. 1990)).

14       District courts considering the imposition of a pre-filing order on a potentially vexatious  
15 litigant should consider four factors. *Id.* The first two requirements, “(1) notice and an  
16 opportunity to be heard and (2) the creation of an adequate record, are procedural  
17 considerations—that is, the factors define ‘[a] specific method or course of action’ that district  
18 courts should use to assess whether to declare a party a vexatious litigant and enter a pre-filing  
19 order.” *Id.* at 1057–58 (quoting *Black’s Law Dictionary* 1241 (8th ed. 2004)). The latter two factors,  
20 requiring “(3) findings of frivolousness or harassment and (4) that the order be narrowly  
21 tailored to prevent the litigant’s abusive behavior, are substantive considerations—that is, the  
22 factors help the district court define who is, in fact, a vexatious litigant.” *Id.* at 1058. Those  
23 factors allow a district court to “construct a remedy that will stop the litigant’s abusive behavior  
24 while not unduly infringing the litigant’s right to access the courts.” *Id.*

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1           II.     Analysis

2           Having carefully reviewed the record and the pertinent circumstances, I find that a  
3 narrowly tailored order prohibiting Colvin from filing or removing any litigation related to any  
4 eviction proceeding in this court—before first obtaining court approval—is appropriate.

5           i.       *Notice and an opportunity to be heard*

6           The show-cause order issued on November 28, 2022, provided Colvin with clear notice  
7 that I was considering declaring him a vexatious litigant and subjecting him to a pre-filing  
8 injunction. ECF No. 10. The order directed Colvin to submit a response, thereby giving him the  
9 opportunity to be heard. Colvin argues in his response that I am biased and prejudiced against  
10 him. ECF No. 11 at 1–2. He also asserts several other unsubstantiated allegations against the  
11 court and opposing counsel. *Id.* at 2–3. Because it mostly consists of conclusory statements that  
12 rely on no case law, I find it insufficient to demonstrate why he should not be deemed vexatious.

13           ii.      *Creation of an adequate record*

14           Colvin has initiated at least six lawsuits related to the eviction proceedings brought  
15 against him in state court. Some cases overlap or were filed within days of each other (*comparing*  
16 *Colvin III v. AHP Realty, LLC et al.*, 2:19-cv-001403-KJD-VCF (filed August 15, 2019, closed May 4,  
17 2021) with *Colvin v. AHP Realty, LLC, et al.*, 2:20-cv-00343-GMN-NJK (filed February 18, 2020,  
18 closed December 28, 2020); *comparing Colvin v. Tako, LLC*, 2:21-cv-01373-APG-BNW (filed July 21,  
19 2021, closed January 6, 2022) with *Colvin v. Tako, LLC*, 2:22-cv-00082-CDS-DJA (filed January 18,  
20 2022, closed November 7, 2022); *comparing Tako, LLC v. Colvin*, 2:22-cv-01837-APG-NJK (filed  
21 November 1, 2022, closed December 6, 2022) with *Colvin v. Tako, LLC*, 2:22-cv-01928-CDS-NJK  
22 (filed November 15, 2022, closed December 5, 2022)). Each one is cloaked in the same language  
23 of federal civil rights or constitutional violations and, most recently, violations of federal  
24 criminal statutes. All have been dismissed for lack of subject-matter jurisdiction, failure to  
25 prosecute, or failure to comply with the law or court order. *See Colvin III v. AHP Realty, LLC et al.*,  
26 2:19-cv-001403-KJD-VCF (failure to demonstrate proof of service then dismissed for want of

## Case 2:22-cv-01928-CDS-NJK Document 13 Filed 12/12/22 Page 4 of 7

1 prosecution); *Colvin v. AHP Realty, LLC, et al.*, 2:20-cv-00343-GMN-NJK (failure to demonstrate  
2 proof of service and dismissed for lack of jurisdiction); *Colvin v. Tako, LLC*, 2:21-cv-01373-APG-  
3 BNW (dismissed with leave to amend for failure to state a claim, then closed because Colvin  
4 failed to amend); *Colvin v. Tako, LLC*, 2:22-cv-00082-CDS-DJA (dismissed for lack of subject-  
5 matter jurisdiction); *Tako, LLC v. Colvin*, 2:22-cv-01837-APG-NJK1 (dismissed for lack of subject-  
6 matter jurisdiction); *Colvin v. Tako, LLC*, 2:22-cv-01928-CDS-NJK (dismissed for lack of subject-  
7 matter jurisdiction).

8                   iii.     *Findings of frivolousness or harassment*

9                   The Ninth Circuit has adopted the Second Circuit's five-factor test to determine  
10 "whether a party is a vexatious litigant and whether a pre-filing order will stop the vexatious  
11 litigation." *Molski*, 500 F.3d at 1058 (quoting *Safir v. U.S. Lines, Inc.*, 792 F.2d 19, 24 (2d Cir. 1986)).  
12 Such factors include "(1) the litigant's history of litigation and in particular whether it entailed  
13 vexatious, harassing or duplicative lawsuits; (2) the litigant's motive in pursuing the litigation,  
14 e.g., does the litigant have an objective good faith expectation of prevailing?; (3) whether the  
15 litigant is represented by counsel; (4) whether the litigant has caused needless expense to other  
16 parties or has posed an unnecessary burden on the courts and their personnel; and (5) whether  
17 other sanctions would be adequate to protect the courts and other parties." *Safir*, 792 F.2d at 24.  
18 Although Colvin has not filed an extraordinary number of lawsuits, the repeated, similar  
19 complaints that he files, and his attempts at "removal," all raise the same or similar claims  
20 against the same defendants. Multiple overlapping lawsuits filed against the same defendants,  
21 containing various allegations that do not give rise to a cognizable cause of action, demonstrate a  
22 pattern of vexatiousness and harassment that flagrantly abuses our judicial system. Thus, the  
23 first factor of the *Safir* test weighs in favor of a finding of vexatiousness.

24                   As to the second factor, Colvin's motives in pursuing litigation are seemingly to delay or  
25 evade the eviction proceedings brought against him by his landlords in state court. All of the  
26 cases involve the same set of central, operative facts alleging that the defendants have not

1 complied with the law, or have violated the law, in attempting to evict him from his residence.  
2 Because his claims are regularly dismissed with explanation of why they fail, he cannot possibly  
3 have an objective good-faith expectation that he is likely to prevail. The second factor therefore  
4 weighs in favor of a finding vexatiousness.

5 As to the third factor, Colvin is not represented by counsel in the instant case, nor was  
6 he in any of the other cases. This factor weighs in favor of a finding of vexatiousness. As to the  
7 fourth factor, Colvin has indeed caused unnecessary expense to the parties and placed a needless  
8 burden on the courts. The record clearly reflects that Colvin regularly files lawsuits despite  
9 knowing that this court lacks subject-matter jurisdiction. Nevertheless, the court is duty-bound  
10 to read through each filing that comes before it. Court personnel spend significant time and  
11 resources attempting to understand Colvin's filings, ensure that they conform with the federal  
12 and local rules, and determine whether cognizable causes of action are contained therein. The  
13 parties, even when not properly served, likewise repeatedly waste significant time and expenses  
14 defending themselves from the same or similar frivolous claims. Needless to say, this is a flagrant  
15 abuse of the judicial system because it consumes the court's time and resources that could be  
16 spent on other, less frivolous, lawsuits.<sup>1</sup> This factor also weighs in favor of a finding of  
17 vexatiousness and harassment.

18 Finally, as to the fifth factor, no other sanctions would adequately protect the parties or  
19 the judicial system. A pre-filing restriction, drawn as narrowly as possible, is the only way to  
20 curtail Colvin's behavior without unduly infringing upon his general rights of access to the  
21 courts.

22 iv. *Narrowly tailored order*

23 I find Colvin's actions vexatious and harassing and conclude that a narrowly tailored  
24 pre-filing order preventing him from filing further actions against these defendants—and any

25 <sup>1</sup> "Flagrant abuse of the judicial process cannot be tolerated because it enables one person to preempt the  
26 use of judicial time that properly could be used to consider the meritorious claims of other litigants." *De  
Long*, 912 F.2d at 1148.

## Case 2:22-cv-01928-CDS-NJK Document 13 Filed 12/12/22 Page 6 of 7

1 others seeking to evict Colvin in the future—or any matters related to landlord-tenant law or  
2 evictions which arise under state or local law, is necessary.

3       **III. Pre-filing order**

4 I hereby enter a pre-filing order against Colvin.

5 IT IS ORDERED that Parnell Colvin is deemed a vexatious litigant and is therefore  
6 enjoined and prohibited under 28 U.S.C. § 1651(a) from filing any complaint, petition, notice  
7 (including notice of removal), or other document, as a pro se litigant, either alone or with other  
8 plaintiffs, in the United States District Court for the District of Nevada that relate to evictions  
9 which arise under state or local law, violations of law during eviction proceedings, landlord-  
10 tenant law or residential leases, without first obtaining leave of court.

11 IT IS FURTHER ORDERED that if Colvin intends to file any papers with this district  
12 that relate in any way to an eviction proceeding, he must first:

- 13       1. Apply to the Chief Judge of this district for leave to file the initiating  
14       documents by submitting to the clerk's office an application bearing  
15       the title "Application to Chief District Judge Seeking Leave to File"  
16       and which must be supported by a declaration from Colvin, made  
17       under penalty of perjury, stating that (1) the matters asserted in the  
18       new complaint or papers have never been raised and disposed of on  
19       their merits by any court; (2) the claim or claims are not frivolous or  
20       made in bad faith; and (3) he has conducted a reasonable investigation  
21       of the facts and such investigation supports the claim or claims; and
- 22       2. Attach a copy of this order to any such application.

23 Failure to comply with this order will constitute sufficient grounds for denial of the application  
24 without prior notice.

25 IT IS FURTHER ORDERED that the Clerk of Court is authorized to reject, refuse to file,  
26 and discard any new complaint, petition, notice (including notice of removal), or document on a

Case 2:22-cv-01928-CDS-NJK Document 13 Filed 12/12/22 Page 7 of 7

1 closed case, or any other litigation-initiating documents submitted pro se without prior  
2 compliance with this order. This order shall not apply to any suit in which a licensed attorney  
3 represents Colvin or to any action in which Colvin appears as a criminal defendant.

4 This order shall remain in effect until further notice by this court.

5 DATED: December 12, 2022

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Cristina D. Silva  
United States District Judge